

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 519**

**Introduced by Senator Hancock  
(Coauthor: Senator Leno)**

February 26, 2015

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An act to amend Sections 13952, ~~13955~~, 13956, 13957, 13958, and 13959 of, and to add Section 13955.5 to, of the Government Code, and to amend Sections ~~1050, 1202.4, 1203.4, 1203.4a, and 1203.41~~ *1050 and 1202.4* of the Penal Code, relating to victims of crime, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 519, as amended, Hancock. Victims of crime.

(1) Existing law provides for the indemnification of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board, subject to specified criteria for, among other things, submission and verification of applications, eligibility for emergency awards and compensation for specified services, and procedures for hearings with respect to the denial of awards. Existing law requires the board to publicize programs related to these provisions, including, among others, the procedures to obtain compensation from the board. Payment of claims and certain programs administered by the board are made under these provisions from the Restitution Fund, which is continuously appropriated to the board for these purposes.

This bill would require all correspondence by the board to an applicant to be written in English, Spanish, ~~and Chinese~~; *Chinese (Mandarin and Cantonese), Vietnamese, Korean, East Armenian, Tagalog, Russian,*

*Arabic, Farsi, Hmong, and Khmer.* The bill would prohibit the board from requiring an applicant to submit documentation from the Internal Revenue Service, the Franchise Tax Board, the State Board of Equalization, the Social Security Administration, or the Employment Development Department in order to determine eligibility for compensation.

~~This bill would expand eligibility for compensation for crime victims to include counseling to a person who is an adult witness of a crime. The bill would also expand eligibility for compensation for mental health services and relocation benefits to a person who is 65 years of age or older and sustained financial exploitation by a relative or caretaker, if there is a reasonable fear of continued exploitation.~~

~~By expanding the requirements of programs administered by the board and the eligibility for payments from a continuously appropriated fund, this bill would make an appropriation.~~

(2) Existing law authorizes the board to compensate an individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay a crime victim's funeral and burial expenses, up to \$7,500, incurred as a direct result of the crime.

~~This bill would specifically require the board when it pays a claim to compensate funeral and burial expenses to pay the amount of \$7,500. to consider granting an applicant an award up to \$7,500, and prohibit any regulation or policy by the board creating a maximum amount of an award pursuant to this provision for less than \$7,500.~~

(3) Existing law requires an application for compensation to be denied if the board finds that the victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing a crime. Existing law also requires an application for compensation to be denied if a person has been convicted of a felony and is not discharged from probation.

This bill would prohibit a claim from being denied pursuant to these provisions in any case in which the victim is eligible for compensation as a minor. This bill would also remove the prohibition against granting compensation to a person convicted of a felony, but not discharged from parole, if the compensation is solely used to fund mental health counseling. By expanding the eligibility for payments from a continuously appropriated fund, this bill would make an appropriation.

(4) Existing law requires the board to approve or deny applications, based on recommendations of the board staff, within an average of 90 calendar days and no later than 180 calendar days of acceptance by the

board or victim center, and to report to the Legislature if the board fails to do so, as specified.

This bill would require the board to approve or deny applications within 90 days total and modifies the reporting requirements accordingly.

(5) Existing law requires board hearings to be informal and authorizes these hearing to not be conducted according to the technical rules relating to evidence and witnesses.

This bill would require the board to allow ~~an~~ *a service* animal to accompany and support a witness while testifying at a board hearing.

(6) Existing law authorizes a party to a criminal proceeding to move for a continuance upon a showing of good cause. Existing law describes “good cause” for purposes of that provision.

This bill would specify that “good cause” ~~is deemed to exist when a witness, who is the victim of the charged crime and has previously been the victim of elder abuse or certain sex crimes, cannot be present due to psychological or emotional distress resulting from that prior victimization.~~ *includes those cases involving elder abuse, as defined, when the prosecuting attorney has another trial, preliminary hearing, or motion to suppress in progress. This bill would also make technical changes to this provision.*

(7) Existing law requires the court to order a person who is convicted of a crime to pay restitution to the victim or victims for the full amount of economic loss, unless the court finds compelling and extraordinary reasons for not doing so and states them on the record. Existing law provides the defendant the right to a hearing before a judge to dispute the determination of the amount of restitution and authorizes the court to modify the amount of restitution.

This bill would authorize a ~~witness~~ *victim* at a restitution or modification hearing to testify by live, 2-way audio and video ~~transmission.~~ *transmission, if that type of transmission is available at the court.*

~~(8) Existing law permits a defendant to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty in any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or has been convicted of a misdemeanor and not granted probation and has fully complied with and performed the sentence of the court, or has been sentenced to a county jail for a felony, or in any other case in which a court, in its~~

discretion and the interests of justice, determines that a defendant should be granted this or other specified relief and requires the defendant to be released from all penalties and disabilities resulting from the offense of which he or she has been convicted.

This bill would state that the dismissal of an accusation or information underlying a conviction pursuant to these provisions does not relieve a person from paying a restitution fine or direct restitution. By increasing the revenues deposited into a continuously appropriated fund, this bill would make an appropriation.

(8) *By expanding the authorizations for use of moneys in the Restitution Fund, a continuously appropriated fund, this bill would make an appropriation.*

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 13952 of the Government Code is  
2 amended to read:  
3 13952. (a) An application for compensation shall be filed with  
4 the board in the manner determined by the board.  
5 (b) (1) The application for compensation shall be verified under  
6 penalty of perjury by the individual who is seeking compensation,  
7 who may be the victim or derivative victim, or an individual  
8 seeking reimbursement for burial, funeral, or crime scene cleanup  
9 expenses pursuant to subdivision (a) of Section 13957. If the  
10 individual seeking compensation is a minor or is incompetent, the  
11 application shall be verified under penalty of perjury or on  
12 information and belief by the parent with legal custody, guardian,  
13 conservator, or relative caregiver of the victim or derivative victim  
14 for whom the application is made. However, if a minor seeks  
15 compensation only for expenses for medical, medical-related,  
16 psychiatric, psychological, or other mental health  
17 counseling-related services and the minor is authorized by statute  
18 to consent to those services, the minor may verify the application  
19 for compensation under penalty of perjury.  
20 (2) For purposes of this subdivision, “relative caregiver” means  
21 a relative as defined in subdivision (h) of Section 6550 of the  
22 Family Code, who assumed primary responsibility for the child

1 while the child was in the relative's care and control, and who is  
2 not a biological or adoptive parent.

3 (c) (1) The board may require submission of additional  
4 information supporting the application that is reasonably necessary  
5 to verify the application and determine eligibility for compensation.

6 (2) The staff of the board shall determine whether an application  
7 for compensation contains all of the information required by the  
8 board. If the staff determines that an application does not contain  
9 all of the required information, the staff shall communicate that  
10 determination to the applicant with a brief statement of the  
11 additional information required. The applicant, within 30 calendar  
12 days of being notified that the application is incomplete, may either  
13 supply the additional information or appeal the staff's  
14 determination to the board, which shall review the application to  
15 determine whether it is complete.

16 (3) The board shall not require an applicant to submit  
17 documentation from the Internal Revenue Service, the Franchise  
18 Tax Board, the State Board of Equalization, the Social Security  
19 Administration, or the Employment Development Department in  
20 order to determine eligibility for compensation.

21 (d) (1) The board may recognize an authorized representative  
22 of the victim or derivative victim, who shall represent the victim  
23 or derivative victim pursuant to rules adopted by the board.

24 (2) For purposes of this subdivision, "authorized representative"  
25 means any of the following:

26 (A) An attorney.

27 (B) If the victim or derivative victim is a minor or an  
28 incompetent adult, the legal guardian or conservator, or an  
29 immediate family member, parent, or relative caregiver who is not  
30 the perpetrator of the crime that gave rise to the claim.

31 (C) A victim assistance advocate certified pursuant to Section  
32 13835.10 of the Penal Code.

33 (D) An immediate family member of the victim or derivative  
34 victim, who has written authorization by the victim or derivative  
35 victim, and who is not the perpetrator of the crime that gave rise  
36 to the claim.

37 (E) Other persons who shall represent the victim or derivative  
38 victim pursuant to rules adopted by the board.

(F) A county social worker designated by a county department of social services to represent a child abuse victim or an elder abuse victim if that victim is unable to file on his or her own behalf.

(3) Except for attorney's fees awarded under this chapter, no authorized representative described in paragraph (2) shall charge, demand, receive, or collect any amount for services rendered under this subdivision.

(e) All correspondence by the board to an applicant shall be written in English, Spanish, ~~and Chinese.~~ *Chinese (Mandarin and Cantonese), Vietnamese, Korean, East Armenian, Tagalog, Russian, Arabic, Farsi, Mong, and Khmer.*

~~SEC. 2. Section 13955 of the Government Code is amended to read:~~

~~13955. Except as provided in Section 13956, a person shall be eligible for compensation when all of the following requirements are met:~~

~~(a) The person for whom compensation is being sought is any of the following:~~

~~(1) A victim.~~

~~(2) A derivative victim.~~

~~(3) (A) A person who is entitled to reimbursement for funeral, burial, or crime scene cleanup expenses pursuant to paragraph (9) of subdivision (a) of Section 13957.~~

~~(B) This paragraph applies without respect to any felon status of the victim.~~

~~(b) Either of the following conditions is met:~~

~~(1) The crime occurred within this state, whether or not the victim is a resident of the state. This paragraph shall apply only during those time periods during which the board determines that federal funds are available to the state for the compensation of victims of crime.~~

~~(2) Whether or not the crime occurred within the State of California, the victim was any of the following:~~

~~(A) A resident of the state.~~

~~(B) A member of the military stationed in California.~~

~~(C) A family member living with a member of the military stationed in this state.~~

~~(e) If compensation is being sought for a derivative victim, the derivative victim is a resident of this state, or resident of another state, who is any of the following:~~

1     ~~(1) At the time of the crime was the parent, grandparent, sibling,~~  
2 ~~spouse, child, or grandchild of the victim.~~

3     ~~(2) At the time of the crime was living in the household of the~~  
4 ~~victim.~~

5     ~~(3) At the time of the crime was a person who had previously~~  
6 ~~lived in the household of the victim for a period of not less than~~  
7 ~~two years in a relationship substantially similar to a relationship~~  
8 ~~listed in paragraph (1).~~

9     ~~(4) Is another family member of the victim, including, but not~~  
10 ~~limited to, the victim's fiancé or fiancée, and who witnessed the~~  
11 ~~crime.~~

12     ~~(5) Is the primary caretaker of a minor victim, but was not the~~  
13 ~~primary caretaker at the time of the crime.~~

14     ~~(d) The application is timely pursuant to Section 13953.~~

15     ~~(e) (1) Except as provided in paragraph (2), the injury or death~~  
16 ~~was a direct result of a crime.~~

17     ~~(2) Notwithstanding paragraph (1), no act involving the~~  
18 ~~operation of a motor vehicle, aircraft, or water vehicle that results~~  
19 ~~in injury or death constitutes a crime for the purposes of this~~  
20 ~~chapter, except when the injury or death from such an act was any~~  
21 ~~of the following:~~

22     ~~(A) Intentionally inflicted through the use of a motor vehicle,~~  
23 ~~aircraft, or water vehicle.~~

24     ~~(B) Caused by a driver who fails to stop at the scene of an~~  
25 ~~accident in violation of Section 20001 of the Vehicle Code.~~

26     ~~(C) Caused by a person who is under the influence of any~~  
27 ~~alcoholic beverage or drug.~~

28     ~~(D) Caused by a driver of a motor vehicle in the immediate act~~  
29 ~~of fleeing the scene of a crime in which he or she knowingly and~~  
30 ~~willingly participated.~~

31     ~~(E) Caused by a person who commits vehicular manslaughter~~  
32 ~~in violation of subdivision (b) of Section 191.5, subdivision (c) of~~  
33 ~~Section 192, or Section 192.5 of the Penal Code.~~

34     ~~(F) Caused by any party where a peace officer is operating a~~  
35 ~~motor vehicle in an effort to apprehend a suspect, and the suspect~~  
36 ~~is evading, fleeing, or otherwise attempting to elude the peace~~  
37 ~~officer.~~

38     ~~(f) As a direct result of the crime, the victim or derivative victim~~  
39 ~~sustained one or more of the following:~~

1     ~~(1) Physical injury. The board may presume a child who has~~  
2     ~~been the witness of a crime of domestic violence has sustained~~  
3     ~~physical injury. A child who resides in a home where a crime or~~  
4     ~~crimes of domestic violence have occurred may be presumed by~~  
5     ~~the board to have sustained physical injury, regardless of whether~~  
6     ~~the child has witnessed the crime.~~

7     ~~(2) Emotional injury and a threat of physical injury.~~

8     ~~(3) Emotional injury, where the crime was a violation of any of~~  
9     ~~the following provisions:~~

10    ~~(A) Section 236.1, 261, 262, 271, 273a, 273d, 285, 286, 288,~~  
11    ~~288a, 288.5, or 289, or subdivision (b) or (c) of Section 311.4, of~~  
12    ~~the Penal Code.~~

13    ~~(B) Section 270 of the Penal Code, where the emotional injury~~  
14    ~~was a result of conduct other than a failure to pay child support,~~  
15    ~~and criminal charges were filed.~~

16    ~~(C) Section 261.5 of the Penal Code, and criminal charges were~~  
17    ~~filed.~~

18    ~~(D) Section 278 or 278.5 of the Penal Code, where the~~  
19    ~~deprivation of custody as described in those sections has endured~~  
20    ~~for 30 calendar days or more. For purposes of this paragraph, the~~  
21    ~~child, and not the nonoffending parent or other caretaker, shall be~~  
22    ~~deemed the victim.~~

23    ~~(4) Injury to, or the death of, a guide, signal, or service dog, as~~  
24    ~~defined in Section 54.1 of the Civil Code, as a result of a violation~~  
25    ~~of Section 600.2 or 600.5 of the Penal Code.~~

26    ~~(5) Financial exploitation by a relative or caretaker for a victim~~  
27    ~~who is 65 years of age or older and there is a reasonable fear of~~  
28    ~~continued exploitation. In this instance, the victim shall only be~~  
29    ~~eligible for compensation for mental health services and relocation~~  
30    ~~benefits.~~

31    ~~(g) The injury or death has resulted or may result in pecuniary~~  
32    ~~loss within the scope of compensation pursuant to Sections 13957~~  
33    ~~to 13957.7, inclusive.~~

34    ~~SEC. 3. Section 13955.5 is added to the Government Code, to~~  
35    ~~read:~~

36    ~~13955.5. Except as provided in Section 13956, a person who~~  
37    ~~is a witness of a crime and 18 years of age or older at the time of~~  
38    ~~the crime shall be eligible for counseling applicable to a victim of~~  
39    ~~a crime.~~



1     ~~SEC. 4.~~

2     *SEC. 2.* Section 13956 of the Government Code is amended  
3 to read:

4     13956. Notwithstanding Section 13955, a person shall not be  
5 eligible for compensation under the following conditions:

6     (a) An application shall be denied if the board finds that the  
7 victim or, if compensation is sought by or on behalf of a derivative  
8 victim, either the victim or derivative victim, knowingly and  
9 willingly participated in the commission of the crime that resulted  
10 in the pecuniary loss for which compensation is being sought  
11 pursuant to this chapter. However, this subdivision shall not apply  
12 if the injury or death occurred as a direct result of a crime  
13 committed in violation of Section 261, 262, or 273.5 of, or a crime  
14 of unlawful sexual intercourse with a minor committed in violation  
15 of subdivision (d) of Section 261.5 of, the Penal Code.

16     (b) (1) An application shall be denied if the board finds that  
17 the victim or, if compensation is sought by, or on behalf of, a  
18 derivative victim, either the victim or derivative victim failed to  
19 cooperate reasonably with a law enforcement agency in the  
20 apprehension and conviction of a criminal committing the crime.  
21 However, in determining whether cooperation has been reasonable,  
22 the board shall consider the victim's or derivative victim's age,  
23 physical condition, and psychological state, cultural or linguistic  
24 barriers, any compelling health and safety concerns, including, but  
25 not limited to, a reasonable fear of retaliation or harm that would  
26 jeopardize the well-being of the victim or the victim's family or  
27 the derivative victim or the derivative victim's family, and giving  
28 due consideration to the degree of cooperation of which the victim  
29 or derivative victim is capable in light of the presence of any of  
30 these factors. An application for a claim shall not be denied  
31 pursuant to this paragraph in any case in which the victim is eligible  
32 for compensation as a minor.

33     (2) An application for a claim based on domestic violence shall  
34 not be denied solely because no police report was made by the  
35 victim. The board shall adopt guidelines that allow the board to  
36 consider and approve applications for assistance based on domestic  
37 violence relying upon evidence other than a police report to  
38 establish that a domestic violence crime has occurred. Factors  
39 evidencing that a domestic violence crime has occurred may  
40 include, but are not limited to, medical records documenting

1 injuries consistent with allegations of domestic violence, mental  
2 health records, or the fact that the victim has obtained a temporary  
3 or permanent restraining order, or all of these.

4 (3) An application for a claim based on human trafficking as  
5 defined in Section 236.1 of the Penal Code shall not be denied  
6 solely because no police report was made by the victim. The board  
7 shall adopt guidelines that allow the board to consider and approve  
8 applications for assistance based on human trafficking relying  
9 upon evidence other than a police report to establish that a human  
10 trafficking crime as defined in Section 236.1 of the Penal Code  
11 has occurred. That evidence may include any reliable corroborating  
12 information approved by the board, including, but not limited to,  
13 the following:

14 (A) A Law Enforcement Agency Endorsement issued pursuant  
15 to Section 236.2 of the Penal Code.

16 (B) A human trafficking caseworker, as identified in Section  
17 1038.2 of the Evidence Code, has attested by affidavit that the  
18 individual was a victim of human trafficking.

19 (4) (A) An application for a claim by a military personnel victim  
20 based on a sexual assault by another military personnel shall not  
21 be denied solely because it was not reported to a superior officer  
22 or law enforcement at the time of the crime.

23 (B) Factors that the board shall consider for purposes of  
24 determining if a claim qualifies for compensation include, but are  
25 not limited to, the evidence of the following:

26 (i) Restricted or unrestricted reports to a military victim  
27 advocate, sexual assault response coordinator, chaplain, attorney,  
28 or other military personnel.

29 (ii) Medical or physical evidence consistent with sexual assault.

30 (iii) A written or oral report from military law enforcement or  
31 a civilian law enforcement agency concluding that a sexual assault  
32 crime was committed against the victim.

33 (iv) A letter or other written statement from a sexual assault  
34 counselor, as defined in Section 1035.2 of the Evidence Code,  
35 licensed therapist, or mental health counselor, stating that the  
36 victim is seeking services related to the allegation of sexual assault.

37 (v) A credible witness to whom the victim disclosed the details  
38 that a sexual assault crime occurred.

39 (vi) A restraining order from a military or civilian court against  
40 the perpetrator of the sexual assault.

1 (vii) Other behavior by the victim consistent with sexual assault.

2 (C) For purposes of this subdivision, the sexual assault at issue  
3 shall have occurred during military service, including deployment.

4 (D) For purposes of this subdivision, the sexual assault may  
5 have been committed off base.

6 (E) For purposes of this subdivision, a “perpetrator” means an  
7 individual who is any of the following at the time of the sexual  
8 assault:

9 (i) An active duty military personnel from the United States  
10 Army, Navy, Marine Corps, Air Force, or Coast Guard.

11 (ii) A civilian employee of any military branch specified in  
12 clause (i), military base, or military deployment.

13 (iii) A contractor or agent of a private military or private security  
14 company.

15 (iv) A member of the California National Guard.

16 (F) For purposes of this subdivision, “sexual assault” means an  
17 offense included in Section 261, 262, 264.1, 286, 288a, or 289 of  
18 the Penal Code, as of the date the act that added this paragraph  
19 was enacted.

20 (c) An application for compensation may be denied, in whole  
21 or in part, if the board finds that denial is appropriate because of  
22 the nature of the victim’s or other applicant’s involvement in the  
23 events leading to the crime or the involvement of the persons whose  
24 injury or death gives rise to the application. In the case of a minor,  
25 the board shall consider the minor’s age, physical condition, and  
26 psychological state, as well as any compelling health and safety  
27 concerns, in determining whether the minor’s application should  
28 be denied pursuant to this section. The application of a derivative  
29 victim of domestic violence under 18 years of age or a derivative  
30 victim of trafficking under 18 years of age may not be denied on  
31 the basis of the denial of the victim’s application under this  
32 subdivision.

33 (d) (1) Notwithstanding Section 13955, a person who is  
34 convicted of a felony shall not be granted compensation until that  
35 person has been discharged from probation or has been released  
36 from a correctional institution and has been discharged from parole,  
37 if any, unless the compensation is solely used to fund mental health  
38 counseling. In no case shall compensation be granted to an  
39 applicant pursuant to this chapter during any period of time the  
40 applicant is held in a correctional institution.

(2) A person who has been convicted of a felony may apply for compensation pursuant to this chapter at any time, but the award of that compensation may not be considered until the applicant meets the requirements for compensation set forth in paragraph (1).

(3) Applications of victims who are not felons shall receive priority in the award of compensation over an application submitted by a felon who has met the requirements for compensation set forth in paragraph (1).

~~SEC. 5.~~

*SEC. 3.* Section 13957 of the Government Code is amended to read:

13957. (a) The board may grant for pecuniary loss, when the board determines it will best aid the person seeking compensation, as follows:

(1) Subject to the limitations set forth in Section 13957.2, reimburse the amount of medical or medical-related expenses incurred by the victim, including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) Subject to the limitations set forth in Section 13957.2, reimburse the amount of outpatient psychiatric, psychological, or other mental health counseling-related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code, and including family psychiatric, psychological, or mental health counseling for the successful treatment of the victim provided to family members of the victim in the presence of the victim, whether or not the family member relationship existed at the time of the crime, that became necessary as a direct result of the crime, subject to the following conditions:

(A) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed ten thousand dollars (\$10,000):

(i) A victim.

(ii) A derivative victim who is the surviving parent, sibling, child, spouse, fiancé, or fiancée of a victim of a crime that directly resulted in the death of the victim.

1 (iii) A derivative victim, as described in paragraphs (1) to (4),  
2 inclusive, of subdivision (c) of Section 13955, who is the primary  
3 caretaker of a minor victim whose claim is not denied or reduced  
4 pursuant to Section 13956 in a total amount not to exceed ten  
5 thousand dollars (\$10,000) for not more than two derivative  
6 victims.

7 (B) The following persons may be reimbursed for the expense  
8 of their outpatient mental health counseling in an amount not to  
9 exceed five thousand dollars (\$5,000):

10 (i) A derivative victim not eligible for reimbursement pursuant  
11 to subparagraph (A), provided that mental health counseling of a  
12 derivative victim described in paragraph (5) of subdivision (c) of  
13 Section 13955, shall be reimbursed only if that counseling is  
14 necessary for the treatment of the victim.

15 (ii) A victim of a crime of unlawful sexual intercourse with a  
16 minor committed in violation of subdivision (d) of Section 261.5  
17 of the Penal Code. A derivative victim of a crime committed in  
18 violation of subdivision (d) of Section 261.5 of the Penal Code  
19 shall not be eligible for reimbursement of mental health counseling  
20 expenses.

21 (iii) A minor who suffers emotional injury as a direct result of  
22 witnessing a violent crime and who is not eligible for  
23 reimbursement of the costs of outpatient mental health counseling  
24 under any other provision of this chapter. To be eligible for  
25 reimbursement under this clause, the minor must have been in  
26 close proximity to the victim when he or she witnessed the crime.

27 (C) The board may reimburse a victim or derivative victim for  
28 outpatient mental health counseling in excess of that authorized  
29 by subparagraph (A) or (B) or for inpatient psychiatric,  
30 psychological, or other mental health counseling if the claim is  
31 based on dire or exceptional circumstances that require more  
32 extensive treatment, as approved by the board.

33 (D) Expenses for psychiatric, psychological, or other mental  
34 health counseling-related services may be reimbursed only if the  
35 services were provided by either of the following individuals:

36 (i) A person who would have been authorized to provide those  
37 services pursuant to former Article 1 (commencing with Section  
38 13959) as it read on January 1, 2002.

39 (ii) A person who is licensed by the state to provide those  
40 services, or who is properly supervised by a person who is so

1 licensed, subject to the board's approval and subject to the  
2 limitations and restrictions the board may impose.

3 (3) Reimburse the expenses of nonmedical remedial care and  
4 treatment rendered in accordance with a religious method of healing  
5 recognized by state law.

6 (4) Subject to the limitations set forth in Section 13957.5,  
7 authorize compensation equal to the loss of income or loss of  
8 support, or both, that a victim or derivative victim incurs as a direct  
9 result of the victim's or derivative victim's injury or the victim's  
10 death. If the victim or derivative victim requests that the board  
11 give priority to reimbursement of loss of income or support, the  
12 board may not pay medical expenses, or mental health counseling  
13 expenses, except upon the request of the victim or derivative victim  
14 or after determining that payment of these expenses will not  
15 decrease the funds available for payment of loss of income or  
16 support.

17 (5) Authorize a cash payment to or on behalf of the victim for  
18 job retraining or similar employment-oriented services.

19 (6) Reimburse the claimant for the expense of installing or  
20 increasing residential security, not to exceed one thousand dollars  
21 (\$1,000). Reimbursement shall be made either upon verification  
22 by law enforcement that the security measures are necessary for  
23 the personal safety of the claimant or verification by a mental  
24 health treatment provider that the security measures are necessary  
25 for the emotional well-being of the claimant. For purposes of this  
26 paragraph, a claimant is the crime victim, or, if the victim is  
27 deceased, a person who resided with the deceased at the time of  
28 the crime. Installing or increasing residential security may include,  
29 but need not be limited to, both of the following:

30 (A) Home security device or system.

31 (B) Replacing or increasing the number of locks.

32 (7) Reimburse the expense of renovating or retrofitting a  
33 victim's residence or a vehicle, or both, to make the residence, the  
34 vehicle, or both, accessible or the vehicle operational by a victim  
35 upon verification that the expense is medically necessary for a  
36 victim who is permanently disabled as a direct result of the crime,  
37 whether the disability is partial or total.

38 (8) (A) Authorize a cash payment or reimbursement not to  
39 exceed two thousand dollars (\$2,000) to a victim for expenses  
40 incurred in relocating, if the expenses are determined by law

1 enforcement to be necessary for the personal safety of the victim  
2 or by a mental health treatment provider to be necessary for the  
3 emotional well-being of the victim.

4 (B) The cash payment or reimbursement made under this  
5 paragraph shall only be awarded to one claimant per crime giving  
6 rise to the relocation. The board may authorize more than one  
7 relocation per crime if necessary for the personal safety or  
8 emotional well-being of the claimant. However, the total cash  
9 payment or reimbursement for all relocations due to the same crime  
10 shall not exceed two thousand dollars (\$2,000). For purposes of  
11 this paragraph a claimant is the crime victim, or, if the victim is  
12 deceased, a person who resided with the deceased at the time of  
13 the crime.

14 (C) The board may, under compelling circumstances, award a  
15 second cash payment or reimbursement to a victim for another  
16 crime if both of the following conditions are met:

17 (i) The crime occurs more than three years from the date of the  
18 crime giving rise to the initial relocation cash payment or  
19 reimbursement.

20 (ii) The crime does not involve the same offender.

21 (D) When a relocation payment or reimbursement is provided  
22 to a victim of sexual assault or domestic violence and the identity  
23 of the offender is known to the victim, the victim shall agree not  
24 to inform the offender of the location of the victim's new residence  
25 and not to allow the offender on the premises at any time, or shall  
26 agree to seek a restraining order against the offender.

27 (E) Notwithstanding subparagraphs (A) and (B), the board may  
28 increase the cash payment or reimbursement for expenses incurred  
29 in relocating to an amount greater than two thousand dollars  
30 (\$2,000), if the board finds this amount is appropriate due to the  
31 unusual, dire, or exceptional circumstances of a particular claim.

32 (9) When a victim dies as a result of a crime, the board may  
33 reimburse any individual who voluntarily, and without anticipation  
34 of personal gain, pays or assumes the obligation to pay any of the  
35 following expenses:

36 (A) The medical expenses incurred as a direct result of the crime  
37 in an amount not to exceed the rates or limitations established by  
38 the board.

39 (B) The funeral and burial expenses incurred as a direct result  
40 of the crime ~~in the amount of~~ *not to exceed* seven thousand five

1 hundred dollars (\$7,500). *The board shall consider granting an*  
2 *applicant an award up to seven thousand five hundred dollars*  
3 *(\$7,500). Any regulation or policy by the board creating a*  
4 *maximum amount of an award pursuant to this provision for less*  
5 *than seven thousand five hundred dollars (\$7,500) is prohibited.*

6 (10) When the crime occurs in a residence, the board may  
7 reimburse any individual who voluntarily, and without anticipation  
8 of personal gain, pays or assumes the obligation to pay the  
9 reasonable costs to clean the scene of the crime in an amount not  
10 to exceed one thousand dollars (\$1,000). Services reimbursed  
11 pursuant to this subdivision shall be performed by persons  
12 registered with the State Department of Public Health as trauma  
13 scene waste practitioners in accordance with Chapter 9.5  
14 (commencing with Section 118321) of Part 14 of Division 104 of  
15 the Health and Safety Code.

16 (11) When the crime is a violation of Section 600.2 or 600.5 of  
17 the Penal Code, the board may reimburse the expense of veterinary  
18 services, replacement costs, or other reasonable expenses, as  
19 ordered by the court pursuant to Section 600.2 or 600.5 of the  
20 Penal Code, in an amount not to exceed ten thousand dollars  
21 (\$10,000).

22 (b) The total award to or on behalf of each victim or derivative  
23 victim may not exceed thirty-five thousand dollars (\$35,000),  
24 except that this amount may be increased to seventy thousand  
25 dollars (\$70,000) if federal funds for that increase are available.

26 ~~SEC. 6:~~

27 *SEC. 4.* Section 13958 of the Government Code is amended  
28 to read:

29 13958. The board shall approve or deny applications, based  
30 on recommendations of the board staff, within 90 calendar days  
31 of acceptance by the board or victim center.

32 (a) If the board does not meet the 90-day requirement prescribed  
33 in this subdivision, the board shall, thereafter, report to the  
34 Legislature, on a quarterly basis, its progress and its current average  
35 time of processing applications. These quarterly reports shall  
36 continue until the board meets the 90-day requirement for two  
37 consecutive quarters.

38 (b) If the board fails to approve or deny an individual application  
39 within 90 days of the date it is accepted, pursuant to this  
40 subdivision, the board shall advise the applicant and his or her



1 representative, in writing, of the reason for the failure to approve  
2 or deny the application.

3 ~~SEC. 7.~~

4 *SEC. 5.* Section 13959 of the Government Code is amended  
5 to read:

6 13959. (a) The board shall grant a hearing to an applicant who  
7 believes he or she is entitled to compensation pursuant to this  
8 chapter to contest a staff recommendation to deny compensation  
9 in whole or in part.

10 (b) The board shall notify the applicant not less than 10 days  
11 prior to the date of the hearing. Notwithstanding Section 11123,  
12 if the application that the board is considering involves either a  
13 crime against a minor, a crime of sexual assault, or a crime of  
14 domestic violence, the board may exclude from the hearing all  
15 persons other than board members and members of its staff, the  
16 applicant for benefits, a minor applicant's parents or guardians,  
17 the applicant's representative, witnesses, and other persons of the  
18 applicant's choice to provide assistance to the applicant during the  
19 hearing. However, the board shall not exclude persons from the  
20 hearing if the applicant or applicant's representative requests that  
21 the hearing be open to the public.

22 (c) At the hearing, the person seeking compensation shall have  
23 the burden of establishing, by a preponderance of the evidence,  
24 the elements for eligibility under Section 13955.

25 (d) Except as otherwise provided by law, in making  
26 determinations of eligibility for compensation and in deciding  
27 upon the amount of compensation, the board shall apply the law  
28 in effect as of the date an application was submitted.

29 (e) (1) The hearing shall be informal and need not be conducted  
30 according to the technical rules relating to evidence and witnesses.  
31 The board may rely on any relevant evidence if it is the sort of  
32 evidence on which responsible persons are accustomed to rely in  
33 the conduct of serious affairs, regardless of the existence of a  
34 common law or statutory rule that might make improper the  
35 admission of the evidence over objection in a civil action. The  
36 board may rely on written reports prepared for the board, or other  
37 information received, from public agencies responsible for  
38 investigating the crime. If the applicant or the applicant's  
39 representative chooses not to appear at the hearing, the board may

1 act solely upon the application for compensation, the staff's report,  
2 and other evidence that appears in the record.

3 (2) The board shall allow ~~an~~ *a service* animal to accompany and  
4 support a witness while testifying at a hearing.

5 (f) Hearings shall be held in various locations with the frequency  
6 necessary to provide for the speedy adjudication of the applications.  
7 If the applicant's presence is required at the hearing, the board  
8 shall schedule the applicant's hearing in as convenient a location  
9 as possible.

10 (g) The board may delegate the hearing of applications to  
11 hearing officers.

12 (h) The decisions of the board shall be in writing. Copies of the  
13 decisions shall be delivered to the applicant or to his or her  
14 representative personally or sent to him or her by mail.

15 (i) The board may order a reconsideration of all or part of a  
16 decision on written request of the applicant. The board shall not  
17 grant more than one request for reconsideration with respect to  
18 any one decision on an application for compensation. The board  
19 shall not consider any request for reconsideration filed with the  
20 board more than 30 calendar days after the personal delivery or  
21 60 calendar days after the mailing of the original decision.

22 (j) The board may order a reconsideration of all or part of a  
23 decision on its own motion, at its discretion, at any time.

24 ~~SEC. 8.~~

25 *SEC. 6.* Section 1050 of the Penal Code is amended to read:

26 1050. (a) The welfare of the people of the State of California  
27 requires that all proceedings in criminal cases shall be set for trial  
28 and heard and determined at the earliest possible time. To this end,  
29 the Legislature finds that the criminal courts are becoming  
30 increasingly congested with resulting adverse consequences to the  
31 welfare of the people and the defendant. Excessive continuances  
32 contribute substantially to this congestion and cause substantial  
33 hardship to victims and other witnesses. Continuances also lead  
34 to longer periods of presentence confinement for those defendants  
35 in custody and the concomitant overcrowding and increased  
36 expenses of local jails. It is therefore recognized that the people,  
37 the defendant, and the victims and other witnesses have the right  
38 to an expeditious disposition, and to that end it shall be the duty  
39 of all courts and judicial officers and of all counsel, both for the  
40 prosecution and the defense, to expedite these proceedings to the

1 greatest degree that is consistent with the ends of justice. In  
2 accordance with this policy, criminal cases shall be given  
3 precedence over, and set for trial and heard without regard to the  
4 pendency of, any civil matters or proceedings. In further accordance  
5 with this policy, death penalty cases in which both the prosecution  
6 and the defense have informed the court that they are prepared to  
7 proceed to trial shall be given precedence over, and set for trial  
8 and heard without regard to the pendency of, other criminal cases  
9 and any civil matters or proceedings, unless the court finds in the  
10 interest of justice that it is not appropriate.

11 (b) To continue any hearing in a criminal proceeding, including  
12 the trial, (1) a written notice shall be filed and served on all parties  
13 to the proceeding at least two court days before the hearing sought  
14 to be continued, together with affidavits or declarations detailing  
15 specific facts showing that a continuance is necessary and (2)  
16 within two court days of learning that he or she has a conflict in  
17 the scheduling of any court hearing, including a trial, an attorney  
18 shall notify the calendar clerk of each court involved, in writing,  
19 indicating which hearing was set first. A party shall not be deemed  
20 to have been served within the meaning of this section until that  
21 party actually has received a copy of the documents to be served,  
22 unless the party, after receiving actual notice of the request for  
23 continuance, waives the right to have the documents served in a  
24 timely manner. Regardless of the proponent of the motion, the  
25 prosecuting attorney shall notify the people's witnesses and the  
26 defense attorney shall notify the defense's witnesses of the notice  
27 of motion, the date of the hearing, and the witnesses' right to be  
28 heard by the court.

29 (c) Notwithstanding subdivision (b), a party may make a motion  
30 for a continuance without complying with the requirements of that  
31 subdivision. However, unless the moving party shows good cause  
32 for the failure to comply with those requirements, the court may  
33 impose sanctions as provided in Section 1050.5.

34 (d) When a party makes a motion for a continuance without  
35 complying with the requirements of subdivision (b), the court shall  
36 hold a hearing on whether there is good cause for the failure to  
37 comply with those requirements. At the conclusion of the hearing,  
38 the court shall make a finding whether good cause has been shown  
39 and, if it finds that there is good cause, shall state on the record  
40 the facts proved that justify its finding. A statement of the finding

1 and a statement of facts proved shall be entered in the minutes. If  
2 the moving party is unable to show good cause for the failure to  
3 give notice, the motion for continuance shall not be granted.

4 (e) Continuances shall be granted only upon a showing of good  
5 cause. Neither the convenience of the parties nor a stipulation of  
6 the parties is in and of itself good cause.

7 (f) At the conclusion of the motion for continuance, the court  
8 shall make a finding whether good cause has been shown and, if  
9 it finds that there is good cause, shall state on the record the facts  
10 proved that justify its finding. A statement of facts proved shall  
11 be entered in the minutes.

12 (g) (1) When deciding whether or not good cause for a  
13 continuance has been shown, the court shall consider the general  
14 convenience and prior commitments of all witnesses, including  
15 peace officers. Both the general convenience and prior  
16 commitments of each witness also shall be considered in selecting  
17 a continuance date if the motion is granted. The facts as to  
18 inconvenience or prior commitments may be offered by the witness  
19 or by a party to the case.

20 (2) For purposes of this section, “good cause” includes, but is  
21 not limited to, those cases involving murder, as defined in  
22 subdivision (a) of Section 187, allegations that stalking, as defined  
23 in Section 646.9, a violation of one or more of the sections  
24 specified in subdivision (a) of Section 11165.1 or Section 11165.6,  
25 ~~or domestic violence~~ *violence*, as defined in Section 13700, *a hate*  
26 *crime, as defined in Title 11.6 (commencing with Section 422.6)*  
27 *of Part 1, or elder abuse, as defined in Section 368 of the Penal*  
28 *Code, has occurred*, or a case being handled in the Career Criminal  
29 Prosecution Program pursuant to Sections 999b through 999h, ~~or~~  
30 ~~a hate crime, as defined in Title 11.6 (commencing with Section~~  
31 ~~422.6) of Part 1, has occurred~~ and the prosecuting attorney assigned  
32 to the case has another trial, preliminary hearing, or motion to  
33 suppress in progress in that court or another court. A continuance  
34 under this paragraph shall be limited to a maximum of 10 additional  
35 court days.

36 (3) Only one continuance per case may be granted to the people  
37 under this subdivision for cases involving stalking, hate crimes,  
38 or cases handled under the Career Criminal Prosecution Program.  
39 Any continuance granted to the people in a case involving stalking

1 or handled under the Career Criminal Prosecution Program shall  
2 be for the shortest time possible, not to exceed 10 court days.

3 ~~(4) For purposes of this section, “good cause” shall be deemed~~  
4 ~~to exist when a witness, who is the victim of the charged crime~~  
5 ~~and has previously been the victim of elder abuse, as defined in~~  
6 ~~Section 368, or a crime described in Section 290, cannot be present~~  
7 ~~due to psychological or emotional distress resulting from that prior~~  
8 ~~victimization.~~

9 (h) Upon a showing that the attorney of record at the time of  
10 the defendant’s first appearance in the superior court on an  
11 indictment or information is a Member of the Legislature of this  
12 state and that the Legislature is in session or that a legislative  
13 interim committee of which the attorney is a duly appointed  
14 member is meeting or is to meet within the next seven days, the  
15 defendant shall be entitled to a reasonable continuance not to  
16 exceed 30 days.

17 (i) A continuance shall be granted only for that period of time  
18 shown to be necessary by the evidence considered at the hearing  
19 on the motion. Whenever any continuance is granted, the court  
20 shall state on the record the facts proved that justify the length of  
21 the continuance, and those facts shall be entered in the minutes.

22 (j) Whenever it shall appear that any court may be required,  
23 because of the condition of its calendar, to dismiss an action  
24 pursuant to Section 1382, the court must immediately notify the  
25 Chair of the Judicial Council.

26 (k) This section shall not apply when the preliminary  
27 examination is set on a date less than 10 court days from the date  
28 of the defendant’s arraignment on the complaint, and the  
29 prosecution or the defendant moves to continue the preliminary  
30 examination to a date not more than 10 court days from the date  
31 of the defendant’s arraignment on the complaint.

32 (l) This section is directory only and does not mandate dismissal  
33 of an action by its terms.

34 ~~SEC. 9.~~

35 *SEC. 7.* Section 1202.4 of the Penal Code is amended to read:

36 1202.4. (a) (1) It is the intent of the Legislature that a victim  
37 of crime who incurs an economic loss as a result of the commission  
38 of a crime shall receive restitution directly from a defendant  
39 convicted of that crime.

1 (2) Upon a person being convicted of a crime in the State of  
2 California, the court shall order the defendant to pay a fine in the  
3 form of a penalty assessment in accordance with Section 1464.

4 (3) The court, in addition to any other penalty provided or  
5 imposed under the law, shall order the defendant to pay both of  
6 the following:

7 (A) A restitution fine in accordance with subdivision (b).

8 (B) Restitution to the victim or victims, if any, in accordance  
9 with subdivision (f), which shall be enforceable as if the order  
10 were a civil judgment.

11 (b) In every case where a person is convicted of a crime, the  
12 court shall impose a separate and additional restitution fine, unless  
13 it finds compelling and extraordinary reasons for not doing so and  
14 states those reasons on the record.

15 (1) The restitution fine shall be set at the discretion of the court  
16 and commensurate with the seriousness of the offense. If the person  
17 is convicted of a felony, the fine shall not be less than two hundred  
18 forty dollars (\$240) starting on January 1, 2012, two hundred eighty  
19 dollars (\$280) starting on January 1, 2013, and three hundred  
20 dollars (\$300) starting on January 1, 2014, and not more than ten  
21 thousand dollars (\$10,000). If the person is convicted of a  
22 misdemeanor, the fine shall not be less than one hundred twenty  
23 dollars (\$120) starting on January 1, 2012, one hundred forty  
24 dollars (\$140) starting on January 1, 2013, and one hundred fifty  
25 dollars (\$150) starting on January 1, 2014, and not more than one  
26 thousand dollars (\$1,000).

27 (2) In setting a felony restitution fine, the court may determine  
28 the amount of the fine as the product of the minimum fine pursuant  
29 to paragraph (1) multiplied by the number of years of imprisonment  
30 the defendant is ordered to serve, multiplied by the number of  
31 felony counts of which the defendant is convicted.

32 (c) The court shall impose the restitution fine unless it finds  
33 compelling and extraordinary reasons for not doing so and states  
34 those reasons on the record. A defendant's inability to pay shall  
35 not be considered a compelling and extraordinary reason not to  
36 impose a restitution fine. Inability to pay may be considered only  
37 in increasing the amount of the restitution fine in excess of the  
38 minimum fine pursuant to paragraph (1) of subdivision (b). The  
39 court may specify that funds confiscated at the time of the  
40 defendant's arrest, except for funds confiscated pursuant to Section

1 11469 of the Health and Safety Code, be applied to the restitution  
2 fine if the funds are not exempt for spousal or child support or  
3 subject to any other legal exemption.

4 (d) In setting the amount of the fine pursuant to subdivision (b)  
5 in excess of the minimum fine pursuant to paragraph (1) of  
6 subdivision (b), the court shall consider any relevant factors,  
7 including, but not limited to, the defendant's inability to pay, the  
8 seriousness and gravity of the offense and the circumstances of its  
9 commission, any economic gain derived by the defendant as a  
10 result of the crime, the extent to which any other person suffered  
11 losses as a result of the crime, and the number of victims involved  
12 in the crime. Those losses may include pecuniary losses to the  
13 victim or his or her dependents as well as intangible losses, such  
14 as psychological harm caused by the crime. Consideration of a  
15 defendant's inability to pay may include his or her future earning  
16 capacity. A defendant shall bear the burden of demonstrating his  
17 or her inability to pay. Express findings by the court as to the  
18 factors bearing on the amount of the fine shall not be required. A  
19 separate hearing for the fine shall not be required.

20 (e) The restitution fine shall not be subject to penalty  
21 assessments authorized in Section 1464 or Chapter 12  
22 (commencing with Section 76000) of Title 8 of the Government  
23 Code, or the state surcharge authorized in Section 1465.7, and  
24 shall be deposited in the Restitution Fund in the State Treasury.

25 (f) Except as provided in subdivisions (q) and (r), in every case  
26 in which a victim has suffered economic loss as a result of the  
27 defendant's conduct, the court shall require that the defendant  
28 make restitution to the victim or victims in an amount established  
29 by court order, based on the amount of loss claimed by the victim  
30 or victims or any other showing to the court. If the amount of loss  
31 cannot be ascertained at the time of sentencing, the restitution  
32 order shall include a provision that the amount shall be determined  
33 at the direction of the court. The court shall order full restitution  
34 unless it finds compelling and extraordinary reasons for not doing  
35 so and states them on the record. The court may specify that funds  
36 confiscated at the time of the defendant's arrest, except for funds  
37 confiscated pursuant to Section 11469 of the Health and Safety  
38 Code, be applied to the restitution order if the funds are not exempt  
39 for spousal or child support or subject to any other legal exemption.

(1) The defendant has the right to a hearing before a judge to dispute the determination of the amount of restitution. The court may modify the amount, on its own motion or on the motion of the district attorney, the victim or victims, or the defendant. If a motion is made for modification of a restitution order, the victim shall be notified of that motion at least 10 days prior to the proceeding held to decide the motion. ~~A witness victim~~ at a restitution hearing or modification hearing described in this paragraph may testify by live, two-way audio and video ~~transmission. transmission, if testimony by live, two-way audio and video transmission is available at the court.~~

(2) Determination of the amount of restitution ordered pursuant to this subdivision shall not be affected by the indemnification or subrogation rights of a third party. Restitution ordered pursuant to this subdivision shall be ordered to be deposited to the Restitution Fund to the extent that the victim, as defined in subdivision (k), has received assistance from the California Victim Compensation and Government Claims Board pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

(3) To the extent possible, the restitution order shall be prepared by the sentencing court, shall identify each victim and each loss to which it pertains, and shall be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss incurred as the result of the defendant's criminal conduct, including, but not limited to, all of the following:

(A) Full or partial payment for the value of stolen or damaged property. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible.

(B) Medical expenses.

(C) Mental health counseling expenses.

(D) Wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, while caring for the injured minor. Lost wages shall include commission income as well as base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.



1 (E) Wages or profits lost by the victim, and if the victim is a  
2 minor, wages or profits lost by the minor's parent, parents,  
3 guardian, or guardians, due to time spent as a witness or in assisting  
4 the police or prosecution. Lost wages shall include commission  
5 income as well as base wages. Commission income shall be  
6 established by evidence of commission income during the  
7 12-month period prior to the date of the crime for which restitution  
8 is being ordered, unless good cause for a shorter time period is  
9 shown.

10 (F) Noneconomic losses, including, but not limited to,  
11 psychological harm, for felony violations of Section 288.

12 (G) Interest, at the rate of 10 percent per annum, that accrues  
13 as of the date of sentencing or loss, as determined by the court.

14 (H) Actual and reasonable attorney's fees and other costs of  
15 collection accrued by a private entity on behalf of the victim.

16 (I) Expenses incurred by an adult victim in relocating away  
17 from the defendant, including, but not limited to, deposits for  
18 utilities and telephone service, deposits for rental housing,  
19 temporary lodging and food expenses, clothing, and personal items.  
20 Expenses incurred pursuant to this section shall be verified by law  
21 enforcement to be necessary for the personal safety of the victim  
22 or by a mental health treatment provider to be necessary for the  
23 emotional well-being of the victim.

24 (J) Expenses to install or increase residential security incurred  
25 related to a violent felony, as defined in subdivision (c) of Section  
26 667.5, including, but not limited to, a home security device or  
27 system, or replacing or increasing the number of locks.

28 (K) Expenses to retrofit a residence or vehicle, or both, to make  
29 the residence accessible to or the vehicle operational by the victim,  
30 if the victim is permanently disabled, whether the disability is  
31 partial or total, as a direct result of the crime.

32 (L) Expenses for a period of time reasonably necessary to make  
33 the victim whole, for the costs to monitor the credit report of, and  
34 for the costs to repair the credit of, a victim of identity theft, as  
35 defined in Section 530.5.

36 (4) (A) If, as a result of the defendant's conduct, the Restitution  
37 Fund has provided assistance to or on behalf of a victim or  
38 derivative victim pursuant to Chapter 5 (commencing with Section  
39 13950) of Part 4 of Division 3 of Title 2 of the Government Code,  
40 the amount of assistance provided shall be presumed to be a direct

1 result of the defendant's criminal conduct and shall be included  
2 in the amount of the restitution ordered.

3 (B) The amount of assistance provided by the Restitution Fund  
4 shall be established by copies of bills submitted to the California  
5 Victim Compensation and Government Claims Board reflecting  
6 the amount paid by the board and whether the services for which  
7 payment was made were for medical or dental expenses, funeral  
8 or burial expenses, mental health counseling, wage or support  
9 losses, or rehabilitation. Certified copies of these bills provided  
10 by the board and redacted to protect the privacy and safety of the  
11 victim or any legal privilege, together with a statement made under  
12 penalty of perjury by the custodian of records that those bills were  
13 submitted to and were paid by the board, shall be sufficient to meet  
14 this requirement.

15 (C) If the defendant offers evidence to rebut the presumption  
16 established by this paragraph, the court may release additional  
17 information contained in the records of the board to the defendant  
18 only after reviewing that information in camera and finding that  
19 the information is necessary for the defendant to dispute the amount  
20 of the restitution order.

21 (5) Except as provided in paragraph (6), in any case in which  
22 an order may be entered pursuant to this subdivision, the defendant  
23 shall prepare and file a disclosure identifying all assets, income,  
24 and liabilities in which the defendant held or controlled a present  
25 or future interest as of the date of the defendant's arrest for the  
26 crime for which restitution may be ordered. The financial disclosure  
27 statements shall be made available to the victim and the board  
28 pursuant to Section 1214. The disclosure shall be signed by the  
29 defendant upon a form approved or adopted by the Judicial Council  
30 for the purpose of facilitating the disclosure. A defendant who  
31 willfully states as true a material matter that he or she knows to  
32 be false on the disclosure required by this subdivision is guilty of  
33 a misdemeanor, unless this conduct is punishable as perjury or  
34 another provision of law provides for a greater penalty.

35 (6) A defendant who fails to file the financial disclosure required  
36 in paragraph (5), but who has filed a financial affidavit or financial  
37 information pursuant to subdivision (c) of Section 987, shall be  
38 deemed to have waived the confidentiality of that affidavit or  
39 financial information as to a victim in whose favor the order of  
40 restitution is entered pursuant to subdivision (f). The affidavit or

1 information shall serve in lieu of the financial disclosure required  
2 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not  
3 apply.

4 (7) Except as provided in paragraph (6), the defendant shall file  
5 the disclosure with the clerk of the court no later than the date set  
6 for the defendant's sentencing, unless otherwise directed by the  
7 court. The disclosure may be inspected or copied as provided by  
8 subdivision (b), (c), or (d) of Section 1203.05.

9 (8) In its discretion, the court may relieve the defendant of the  
10 duty under paragraph (7) of filing with the clerk by requiring that  
11 the defendant's disclosure be submitted as an attachment to, and  
12 be available to, those authorized to receive the following:

13 (A) A report submitted pursuant to subparagraph (C) of  
14 paragraph (2) of subdivision (b) of Section 1203 or subdivision  
15 (g) of Section 1203.

16 (B) A stipulation submitted pursuant to paragraph (4) of  
17 subdivision (b) of Section 1203.

18 (C) A report by the probation officer, or information submitted  
19 by the defendant applying for a conditional sentence pursuant to  
20 subdivision (d) of Section 1203.

21 (9) The court may consider a defendant's unreasonable failure  
22 to make a complete disclosure pursuant to paragraph (5) as any of  
23 the following:

24 (A) A circumstance in aggravation of the crime in imposing a  
25 term under subdivision (b) of Section 1170.

26 (B) A factor indicating that the interests of justice would not be  
27 served by admitting the defendant to probation under Section 1203.

28 (C) A factor indicating that the interests of justice would not be  
29 served by conditionally sentencing the defendant under Section  
30 1203.

31 (D) A factor indicating that the interests of justice would not  
32 be served by imposing less than the maximum fine and sentence  
33 fixed by law for the case.

34 (10) A defendant's failure or refusal to make the required  
35 disclosure pursuant to paragraph (5) shall not delay entry of an  
36 order of restitution or pronouncement of sentence. In appropriate  
37 cases, the court may do any of the following:

38 (A) Require the defendant to be examined by the district attorney  
39 pursuant to subdivision (h).

1 (B) If sentencing the defendant under Section 1170, provide  
2 that the victim shall receive a copy of the portion of the probation  
3 report filed pursuant to Section 1203.10 concerning the defendant's  
4 employment, occupation, finances, and liabilities.

5 (C) If sentencing the defendant under Section 1203, set a date  
6 and place for submission of the disclosure required by paragraph  
7 (5) as a condition of probation or suspended sentence.

8 (11) If a defendant has any remaining unpaid balance on a  
9 restitution order or fine 120 days prior to his or her scheduled  
10 release from probation or 120 days prior to his or her completion  
11 of a conditional sentence, the defendant shall prepare and file a  
12 new and updated financial disclosure identifying all assets, income,  
13 and liabilities in which the defendant holds or controls or has held  
14 or controlled a present or future interest during the defendant's  
15 period of probation or conditional sentence. The financial  
16 disclosure shall be made available to the victim and the board  
17 pursuant to Section 1214. The disclosure shall be signed and  
18 prepared by the defendant on the same form as described in  
19 paragraph (5). A defendant who willfully states as true a material  
20 matter that he or she knows to be false on the disclosure required  
21 by this subdivision is guilty of a misdemeanor, unless this conduct  
22 is punishable as perjury or another provision of law provides for  
23 a greater penalty. The financial disclosure required by this  
24 paragraph shall be filed with the clerk of the court no later than  
25 90 days prior to the defendant's scheduled release from probation  
26 or completion of the defendant's conditional sentence.

27 (12) In cases where an employer is convicted of a crime against  
28 an employee, a payment to the employee or the employee's  
29 dependent that is made by the employer's workers' compensation  
30 insurance carrier shall not be used to offset the amount of the  
31 restitution order unless the court finds that the defendant  
32 substantially met the obligation to pay premiums for that insurance  
33 coverage.

34 (g) The court shall order full restitution unless it finds  
35 compelling and extraordinary reasons for not doing so and states  
36 those reasons on the record. A defendant's inability to pay shall  
37 not be considered a compelling and extraordinary reason not to  
38 impose a restitution order, nor shall inability to pay be a  
39 consideration in determining the amount of a restitution order.

1 (h) The district attorney may request an order of examination  
2 pursuant to the procedures specified in Article 2 (commencing  
3 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part  
4 2 of the Code of Civil Procedure, in order to determine the  
5 defendant's financial assets for purposes of collecting on the  
6 restitution order.

7 (i) A restitution order imposed pursuant to subdivision (f) shall  
8 be enforceable as if the order were a civil judgment.

9 (j) The making of a restitution order pursuant to subdivision (f)  
10 shall not affect the right of a victim to recovery from the Restitution  
11 Fund as otherwise provided by law, except to the extent that  
12 restitution is actually collected pursuant to the order. Restitution  
13 collected pursuant to this subdivision shall be credited to any other  
14 judgments for the same losses obtained against the defendant  
15 arising out of the crime for which the defendant was convicted.

16 (k) For purposes of this section, "victim" shall include all of  
17 the following:

18 (1) The immediate surviving family of the actual victim.

19 (2) A corporation, business trust, estate, trust, partnership,  
20 association, joint venture, government, governmental subdivision,  
21 agency, or instrumentality, or any other legal or commercial entity  
22 when that entity is a direct victim of a crime.

23 (3) A person who has sustained economic loss as the result of  
24 a crime and who satisfies any of the following conditions:

25 (A) At the time of the crime was the parent, grandparent, sibling,  
26 spouse, child, or grandchild of the victim.

27 (B) At the time of the crime was living in the household of the  
28 victim.

29 (C) At the time of the crime was a person who had previously  
30 lived in the household of the victim for a period of not less than  
31 two years in a relationship substantially similar to a relationship  
32 listed in subparagraph (A).

33 (D) Is another family member of the victim, including, but not  
34 limited to, the victim's fiancé or fiancée, and who witnessed the  
35 crime.

36 (E) Is the primary caretaker of a minor victim.

37 (4) A person who is eligible to receive assistance from the  
38 Restitution Fund pursuant to Chapter 5 (commencing with Section  
39 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

(5) A governmental entity that is responsible for repairing, replacing, or restoring public or privately owned property that has been defaced with graffiti or other inscribed material, as defined in subdivision (e) of Section 594, and that has sustained an economic loss as the result of a violation of Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code.

(l) At its discretion, the board of supervisors of a county may impose a fee to cover the actual administrative cost of collecting the restitution fine, not to exceed 10 percent of the amount ordered to be paid, to be added to the restitution fine and included in the order of the court, the proceeds of which shall be deposited in the general fund of the county.

(m) In every case in which the defendant is granted probation, the court shall make the payment of restitution fines and orders imposed pursuant to this section a condition of probation. Any portion of a restitution order that remains unsatisfied after a defendant is no longer on probation shall continue to be enforceable by a victim pursuant to Section 1214 until the obligation is satisfied.

(n) If the court finds and states on the record compelling and extraordinary reasons why a restitution fine or full restitution order should not be required, the court shall order, as a condition of probation, that the defendant perform specified community service, unless it finds and states on the record compelling and extraordinary reasons not to require community service in addition to the finding that restitution should not be required. Upon revocation of probation, the court shall impose restitution pursuant to this section.

(o) The provisions of Section 13963 of the Government Code shall apply to restitution imposed pursuant to this section.

(p) The court clerk shall notify the California Victim Compensation and Government Claims Board within 90 days of an order of restitution being imposed if the defendant is ordered to pay restitution to the board due to the victim receiving compensation from the Restitution Fund. Notification shall be accomplished by mailing a copy of the court order to the board, which may be done periodically by bulk mail or email.

(q) Upon conviction for a violation of Section 236.1, the court shall, in addition to any other penalty or restitution, order the defendant to pay restitution to the victim in a case in which a victim

1 has suffered economic loss as a result of the defendant's conduct.  
2 The court shall require that the defendant make restitution to the  
3 victim or victims in an amount established by court order, based  
4 on the amount of loss claimed by the victim or victims or another  
5 showing to the court. In determining restitution pursuant to this  
6 section, the court shall base its order upon the greater of the  
7 following: the gross value of the victim's labor or services based  
8 upon the comparable value of similar services in the labor market  
9 in which the offense occurred, or the value of the victim's labor  
10 as guaranteed under California law, or the actual income derived  
11 by the defendant from the victim's labor or services or any other  
12 appropriate means to provide reparations to the victim.

13 (r) (1) In addition to any other penalty or fine, the court shall  
14 order a person who has been convicted of a violation of Section  
15 350, 653h, 653s, 653u, 653w, or 653aa that involves a recording  
16 or audiovisual work to make restitution to an owner or lawful  
17 producer, or trade association acting on behalf of the owner or  
18 lawful producer, of a phonograph record, disc, wire, tape, film, or  
19 other device or article from which sounds or visual images are  
20 derived that suffered economic loss resulting from the violation.  
21 The order of restitution shall be based on the aggregate wholesale  
22 value of lawfully manufactured and authorized devices or articles  
23 from which sounds or visual images are devised corresponding to  
24 the number of nonconforming devices or articles involved in the  
25 offense, unless a higher value can be proved in the case of (A) an  
26 unreleased audio work, or (B) an audiovisual work that, at the time  
27 of unauthorized distribution, has not been made available in copies  
28 for sale to the general public in the United States on a digital  
29 versatile disc. For purposes of this subdivision, possession of  
30 nonconforming devices or articles intended for sale constitutes  
31 actual economic loss to an owner or lawful producer in the form  
32 of displaced legitimate wholesale purchases. The order of  
33 restitution shall also include reasonable costs incurred as a result  
34 of an investigation of the violation undertaken by the owner, lawful  
35 producer, or trade association acting on behalf of the owner or  
36 lawful producer. "Aggregate wholesale value" means the average  
37 wholesale value of lawfully manufactured and authorized sound  
38 or audiovisual recordings. Proof of the specific wholesale value  
39 of each nonconforming device or article is not required.

1 (2) As used in this subdivision, “audiovisual work” and  
2 “recording” shall have the same meaning as in Section 653w.  
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**All matter omitted in this version of the bill  
appears in the bill as amended in the  
Senate, April 6, 2015. (JR11)**